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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,760	02/16/2001	Raj Abhyanker	10005750-1	2971

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
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EXAMINER

AKINTOLA, OLABODE

ART UNIT	PAPER NUMBER
3691	

DATE MAILED: 12/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/785,760

Applicant(s)

ABHYANKER, RAJ

Examiner

Olabode Akintola

Art Unit

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-26 and 28-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-26 and 28-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/27/2006 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 4-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godin et al (US 20010009005) ("Godin") in view of Sharp et al (US 20020111892) ("Sharp") and further in view of Huberman (US 5826244) ("Huberman").

Re claim 4: Godin teaches a method for aligning transactional flows within an internet exchange portal, comprising: facilitating a first auction on the portal for a sale of a good between a buyer and a seller (sections 0022-0025); sending the buyer a shipping form to gather a set of shipping data about shipping the good after the buyer and the seller agree for the sale of the good (section 0034, Figs. 11 and 12); collecting the set of shipping data for a contract entered into between the buyer and seller resulting from the sale of the good (section 34).

Godin does not specifically disclose the auction elements of the second auction for shipping services which include soliciting bids for shipping services required by a contract, receiving a set of shipping bids or selecting a bid from the set of bids according to a predetermined set of bid evaluation criteria. Sharp discloses these as soliciting bids for shipping services for goods required by a contract (sections 0004, 0113, 0121), receiving a set of shipping bids (section 0111), and selecting a bid from the set of bids according to a predetermined set of bid evaluation criteria (section 0112-0119).

It would have been obvious to one of ordinary skill in that art at the time of the invention to modify Godin with the shipping service auction of Sharp because this would provide a mechanism to effectively match the needs of a seller/shipper and capacities of shipping companies. See Sharp at (section 0003).

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The Examiner notes that Applicants' claimed invention comprises two auctions. First, an auction for goods is performed, as per Godin. Next, an auction is performed to obtain shipping services for the good obtained at the first auction, as disclosed by Sharp. However, Huberman teaches the concept of conducting first and second auctions on the same portal (Col.18, lines 51-67). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Godin and Sharp to be performed in the same internet exchange portal, a concept taught by Huberman. One would have been motivated to do so in order to allow entities to act as customers in the first auction and suppliers in a second auction, thereby enhancing the efficiency of the system.

Re claim 5: Sharp teaches business-to-business auction (section 0005).

Re claim 7: Sharp teaches the collecting step includes the step of collecting a bidding-period; and the receiving step further comprising the step of receiving a set of shipping bids within the bidding-period (sections 0111-0114).

Re claim 8: Official Notice is taken that the grouping of contracts for transportation (loads) is old and well known in the freight transport. For example, a shipper having a standard fifty-three foot trailer would transport loads to a common destination from multiple parties, rather than shipping a single small load which would use only part of the trailer capacity.

It would have been obvious to one of ordinary skill in that art at the time of the invention to modify Sharp to group such loads and auction grouped contracts to more efficiently and profitably

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match customers and shippers. See the Hunt reference (US 5724524) for support (Col. 6, line 40 to Col. 10, line 3).

Re claim 9: Sharp discloses a plurality of shippers at Summary of the Invention, particularly sections 0017-0018. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Godin to consider the plurality of shippers of Sharp because this would provide competition in the selection of shipping suppliers and produce a lower shipping cost for the auctioned good.

Re claim 10: Godin discloses a predetermined set of shipping data (Fig. 11 and related text).

Re claim 11: Sharp discloses seller bid evaluation criteria (sections 0110-0112).

Re claim 12: Godin discloses selection by a seller from among forwarded bids (section 0002).

Re claim 13: Sharp discloses selecting the bid with the lowest shipping price (section 0111).

Re claim 14: Official Notice is taken that a default selection absent an exact match was old and well known at the time of the invention. For example, selection of a "closest match" selection was known. It would have been obvious to one of ordinary skill in that art at the time of the invention to modify Sharp to select a default shipper in the absence of a match to predetermined criteria because this would assure that although sub-optimal, the selection would at least assure

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that shipping was accomplished. See the Burton (US 20020007321) reference (sections 0222-0223) for support of this taking of Official Notice with respect to default suppliers of services.

Re claim 15: See the discussion of Claim 4

Re claims 16-17 and 19-26: See the discussion of Claims 4-5 and 7-14, of which they are computer-usable medium variants and are rejected in a like manner.

Re claims 28 and 29: See the discussion of claim 4.

Re claims 30 and 31: Huberman teaches selecting bid according to a set of predetermined bid evaluation criteria, wherein winning bid is based on other criteria in addition to price (col. 17, lines 26-35). It would have been obvious to one of ordinary skill in the art to modify Godin/Sharp to include these steps. One would have been motivated to do so in order to predefine what makes a winning bid, thereby obviating the need for the customer/seller to select the winning bid.

Claims 6 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godin in view of Sharp in view of Huberman and further in view of Woolston (US 6202051) ("Woolston").

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Re claim 6: Godin discloses the invention substantially as claimed, including a contract consummation event (section 0023). See the discussion of Claim 4. Godin does not specifically disclose an auction service fee. Woolston discloses an auction service fee (Col. 21, lines 55-57). It would have been obvious to one of ordinary skill in that art at the time of the invention to modify Godin to include the auction service fee of Woolston so as to compensate the entity providing auction services.

Re claim 18: See the discussion of claim 16 and claim 6.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olabode Akintola whose telephone number is 571-272-3629. The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OA



HANI M. KAZIMI
PRIMARY EXAMINER